

5. SUBMISSION ON THE TAXES AND CHARITIES DISCUSSION DOCUMENT

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The purpose of this report is to:

- (a) inform the Council of the key proposals contained in the government's discussion document entitled, "Charities and Taxes" and their potential impact on the charitable organisations that the Council supports and works with.
- (b) Seek the Council's adoption of the draft submission (attached).
- (c) Seek the Council's approval for the submission to be made available to the charitable organisations that the Council supports and works with so they can endorse it or use it in the preparation of their own submissions.

BACKGROUND

The Government has issued the Charities and Taxes Discussion Document. It is available on the Inland Revenue Department's website, www.ird.govt (click on "Other Information" then "Discussion Documents" then "Discussion Documents" again and then "Tax and charities").

Significant Proposals Included in it

- All charities will be required to be registered and to file audited financial statements that are to be publicly available.
- The trading activities operated by charities will be subject to income tax except to the extent that their profits are distributed for the stated charitable purpose for which the tax exemption was granted.
- The FBT exemption for charities will be withdrawn.
- Charities will be required to file an annual income tax return with the Inland Revenue Department.

POTENTIAL IMPLICATIONS OF THE PROPOSALS

The adoption of the proposals by the Government will increase the administrative demands and therefore the costs of the charitable organisations that the Council supports and works with.

The organisations would be subject to the penalties regime applying to income tax and FBT. Therefore they would be liable to pay penalties and/or interest if they file a return late, file a return that is incorrect or incomplete or if they fail to pay any income tax or FBT that is or should have been assessed.

The organisations would be required to pay FBT. This could have a significant impact on the costs of those organisations that provide vehicles to their employees such as the Nurse Maude Association.

KEY POINTS OF THE DRAFT SUBMISSION

The draft submission makes the following key points:

The Council acknowledges that there is potential for charitable status for taxation purposes to be abused. However, any measures that are instituted to prevent possible abuse must not unduly hinder the very significant contribution that charitable organisations make to our society.

The Council is not aware that any of the charitable organisations that it works with or supports, are abusing their charitable status for taxation purposes. The Council has also not been presented with any concrete evidence to show that this is occurring or, if it is, that the loss of revenue to the Government is significant.

Based on these premises, the recommendation is that the Government adopt a two stage process. The first stage would involve compulsory registration to obtain charitable status for taxation purposes along with the compulsory filing of financial statements with the Inland Revenue Department. These financial statements should be prepared on a differential reporting basis as outlined in our detailed comments above. This would then provide information on the extent and value of any abuse.

The second stage, potentially involving such proposals as the taxation of the trading activities of charities, the removal of the FBT exemption, etc, would then *only* be implemented if the extent and value of any abuse was large enough to justify the additional costs on charitable organisations.

To minimise the risk of legislation being passed that could have significant adverse financial impacts on the charitable organisations that it works with or supports, specific comments are made on each of the proposals if the major recommendation above is not adopted. These comments point out the actual or possible adverse impacts, issues that should be considered before the specific proposals are adopted and make recommendations on alternative solutions that should be adopted instead.

The Committee decided to approve the draft submission in principle and to request the Legislation Committee to refine it and to report direct to the Council with its recommendations.

The Legislation Subcommittee (Councillors Close, Evans and O'Rourke) met on 15 August 2001 to consider the draft submission in greater detail.

The Subcommittee made two key changes to the submission, as follows:

- As an over-riding principle the guidelines for qualification for taxable benefits for charitable purposes should be consistent with the objectives the Government and community are seeking to achieve.
- The aim of the legislation must be to ensure those organisations targeting particular segments of the community do not do so exclusively.

All the changes made by the Subcommittee are shown in italics.

The document will be made available to the charitable organisations the Council supports and works with so they can either endorse it or use it in the preparation of their own submission.

Recommendation: That the submission, as amended, be adopted.